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Crl.O.P.No.12965 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.12965 of 2023

1.Md.Kiruban Shah
2. Md. Arasad

... Petitioners

Vs.

The State Rep by
Inspector of Police
PEW-Salem City Police Station
Salem District
Crime No.278 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioners on bail in Crime No.278 of 2023 on the file
of the respondent police.

For Petitioners : Mr.C.Deepak Kumar

For Respondent : Mr. C.E.Pratap
Government Advocate (Crl. Side)



ORDER

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The petitioners, who were arrested and remanded to judicial custody on **03.05.2023** for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(B) of NDPS Act, in Crime No.278 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 02.05.2023, the petitioners were found illegally transporting 6 Kgs. of Ganja leaves and seeds by Thanpath-Alapuzha Express. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that the respondent police recovered the alleged contraband from the compartment and wrongly implicated the petitioners in this case. He would further submit that the petitioners are aged only 21 years and they have been languishing in jail for more than one month from 03.05.2023. He would also submit that they petitioners have got permanent address and they are ready to abide by any stringent conditions as may be directed by this Court. Hence, he prayed for grant of bail to the petitioners.



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4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed for grant of bail to the petitioners stating that the petitioners were found illegally transporting 6 Kgs. of Ganja leaves and seeds by train. He further submitted that the petitioners are respectively the native of West Bengal and Bihar. However, he would submit that there is no previous case against the petitioners.

5. In reply, the learned counsel for the petitioners submitted that the petitioners relatives who are blood related them, are ready to stand as sureties. He would also submit that the petitioners without prejudices to their defence, are ready and willing to deposit a substantial amount to any welfare scheme run by the Government, as may be directed by this Court and he prayed for grant of bail to the petitioners.

6. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials available on record including the FIR.



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7. Considering the above facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioners, this Court is inclined to grant of bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are directed to make a non refundable **deposit of Rs.20,000/- (Rupees Twenty Thousand Only) each, by way of RTGS/NEFT to the credit of "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College and Hospital, Salem"** without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.10,000/- (Rupees Ten thousand only) with two sureties out of which, one surety shall be the blood relative of the petitioners**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.2, Salem**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



[b] the petitioners shall report before the respondent police everyday at 10.30 a.m. until further orders.

[c] At the time of furnishing sureties, the blood related surety shall convince the learned Magistrate with regard to his/her permanent residence;

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

12.06.2023

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A.D.JAGADISH CHANDIRA,J.,

ksa-2

To

1. The Judicial Magistrate Court No.2, Salem
2. Inspector of Police
PEW-Salem City Police Station
Salem District
3. The Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.

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